IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 33728 of 2004(M)

PETITIONER:

BABU. C. NAIR, AGED 40 YEARS,
S/O. CHELLAPPAN NAIR, RESIDING AT
SHANKARAMANGALATH HOUSE, MADAPPALLY P.O.,
CHANGANASSERI, NOW WORKING AS SENIOR TELECOM
OFFICE ASST., OFFICE OF PRINCIPLE GENERAL MANAGER,
BSNL KOTTAYAM.

BY ADV. SRI.JOY GEORGE
SRI.SAJITH PAUL MATHEW

RESPONDENTS:

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1. **BHARATH SANCHAR NIGAM LTD.,**
   REP. BY ITS CHAIRMAN & MANAGING DIRECTOR
   BSNL BHAVAN, NEW DELHI.

2. **THE CHIEF GENERAL MANAGER, BSNL,**
   BSNL BHAVAN, KERALA CIRCLE, TRIVANDRUM.

3. **THE PRINCIPLE GENERAL MANAGER**
   BSNL, PULICKAN'S COMPLEX, KOTTAYAM.

BY ADV. SRI.C.S.RAMANATHAN, SC, BSNL for R1 to R3

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.33728/2004M

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF ORDER NO.252-1/91 STN (PT) DTD. 27/04/1994.

EXT.P2: COPY OF THE ORDER NO.27-4/87-7E-II(2) DTD. 16/10/90.

EXT.P3: COPY OF THE MARK LIST OF THE PETITIONER FOR POLYMER TECHNOLOGY.

EXT.P4: COPY OF LETTER NO.HRD/1-4/94 DTD. 3/02/95.

EXT.P5: COPY OF APPLICATION INVITED BY THE 3RD RESPONDENT FOR THE POST OF TTA.

EXT.P6: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER.

EXT.P7: COPY OF THE CERTIFICATE ISSUED BY THE STATE BOARD OF TECHNICAL EDUCATION.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF NOTIFICATION DTD. 22/07/1991 ISSUED BY THE ASSISTANT DIRECTOR GENERAL (STC), BSNL.

EXT.R3(B); COPY OF RECRUITMENT RULE PUBLISHED IN THE GAZETTE OF INDIA DTD. 31/12/1994.

EXT.R3(C): COPY OF LETTER DTD. 27/04/1994 SENT BY THE MINISTRY OF COMMUNICATIONS.

EXT.R3(D): COPY OF THE RECRUITMENT RULE FORMULATED BY THE BSNL CORPORATE OFFICE DTD. 27/02/2001.

/TRUE COPY/

P.S.TO JUDGE

KSS

K. BALAKRISHNAN NAIR, J.

W.P.(C) No.33728 of 2004-M

JUDGMENT

The petitioner is a Senior Telecom Office Assistant. He is desirous of getting promotion to the post of Telecom Technical Assistant. Ext.P1 is the Recruitment Rules. The qualification prescribed for the post is Three Years' Diploma in Electrical/Mechanical/Radio/Telecom/Electronics Engineering. The petitioner's qualification is Diploma in Polymer Technology. Admittedly, it is not the prescribed qualification. So, this writ petition was filed, seeking the following reliefs:

> "(i) issue a writ of mandamus or order or direction directing the respondents to include Polymer Technology in Ext.P1 order as one of the subjects for considering to the promotion post of TTA.
>
> (ii) to declare that the study of Polymer Technology is equivalent or more equivalent than 2 year ITI Certificate course.
>
> (iii) issue a writ of mandamus or order or direction, directing the respondents to consider the petitioner's case to the post of TTA treating that the study of Polymer Technology is enough

or equivalent as that of the subjects mentioned in Ext.P1.

(iv) to declare that the petitioner is entitled for promotion on the basis of Ext.P6 application already submitted by him."

2. The 1st prayer is for a direction to the 1st respondent to amend the Recruitment Rules, which obviously this Court cannot do under Article 226 of the Constitution of India. Neither the legislature nor its delegate can be asked to frame or amend a law or a Rule by the High Court. The 2nd prayer also cannot be granted as it is for the competent authority to decide whether the petitioner's Diploma is equivalent to the prescribed qualification. In view of the above position no relief could be granted to the petitioner in this writ petition. Accordingly, it is dismissed.

18th July, 2007. K.BALAKRISHNAN NAIR, JUDGE.

nm.